

PLANNING BOARD MEETING

TIPP CITY, MIAMI COUNTY, OHIO

May 8, 2007

Meeting

Chairman Michael McFarland called this meeting of the Tipp City Planning Board to order at 7:30 p.m.

Roll Call

Roll call showed the following Board members present: Mike McFarland, John Berbach, and Mark Springer.

Others in attendance: Assistant City Manager Brad Vath, City Planner/Zoning Administrator Matt Spring, and Board Secretary Marilyn Fennell. Those signing the guest register included: Joe Bagi, Gerald & Martha Hochwalt, Ann Smith, Virginia Eyler, Tom Boardman, Frances Potter, Dianne M. Grandinette, Nick Makley, Elizabeth Makley, Christopher Schneider, David & Carolyn Glaser, Mark G. Lee, Carolyn Pierre, Bradley Warkentine, Jim Deschler, Jan Bennett, Chris Pelphrey, Lynn Minneman, Tom Sylvester, Lisa Sylvester, Alan Leingang, Scott Timms, Alex Culpepper, Richard Mosier, Brad Stapleton, Ian Jensen, Ezio Miconi, Sue Amlin, Alex Gruenewald, Jim Hooper, Denise Hooper, Jaydee Blair, Larry Riesser, Roy & Marilyn Roller, Michael Begley, Nancy Carus, John Kronour, Paul Dehus, and Tony Schroeder.

Excuse Board Members

Mr. McFarland moved to excuse Mr. Blake and Mr. Horrocks. Mr. Berbach seconded the motion. Motion passed 3-0. Mr. McFarland informed the public that according to code, 3 Board members must be present to conduct business; therefore business would proceed this evening.

Approval of Minutes
April 10, 2007 Meeting

Mr. Berbach moved to approve the minutes of the April 10, 2007 meeting. Mr. Springer seconded the motion. Motion carried 3-0.

Items not on the Agenda
NEW BUSINESS
Deadline Dates

There were no comments on items not on the agenda.

Chairman McFarland announced that the next regularly scheduled Planning Board meeting would be held Tuesday, June 12, 2007. Preliminary Plans, Final Plats and Site Plans must be submitted by 5:00 p.m. on May 21, 2007 and temporary sign requests for display over 30 days must be submitted by 5:00 p.m. on June 6, 2007.

Mr. McFarland stated the public hearing for Fieldstone Place would not take place this evening due to some last minute design changes that staff was not able to review before the meeting. The public hearing was rescheduled to June 12, 2007.

Swearing in-those
wishing to give
testimony

Those wishing to speak during the next two public hearings were sworn in at this time by Mr. Vath.

Amend the Agenda:
Add Item I-Tom Sylvester,
425 W. Evanston Rd.-
Subdivision
(Mr. Horrocks arrived at this
time-7:33pm)

Mr. McFarland **moved to add Item I, Tom Sylvester, 425 W. Evanston Rd-Subdivision to New Business.** Mr. Springer seconded the motion. Motion carried 3-0.

Fieldstone Place, 105,
125, 155, 175 E
Evanston Rd., Pt IL
3601, PRD-
Preliminary Plat

Mr. Vath said the public hearing for Fieldstone Place was not taking place due a change in the original design and lot layout. The configuration had been shown as a single lot and the subdivider changed it to a 3-lot configuration. There was not adequate time to review that change and give information to the Planning Board members. It was staff's recommendation that the public hearing be reset for June 12, 2007.

Mr. McFarland **moved to reset the public hearing for June 12, 2007 for the preliminary Plat.** Mr. Horrocks seconded the motion. Motion passed 4-0.

Public Hearing: David
& Carolyn Glaser,
1330 E. Evanston Rd.,
IL 4043 & 4044-Zoning
Map Amendment R-1
to R-1A

Mr. McFarland **moved to open the public hearing.** Mr. Springer seconded the motion. Motion passed 4-0.

Mr. Spring explained the City Council accepted annexation of the property on October 2, 2006. It was rezoned on December 18, 2006 as R-1, Open Space Residential. Mr. Glaser has expressed the desire to create 3 lots on his property. The initial rezoning was not correct to allow for the creation of a third lot. Mr. Glaser is requesting R-1A to accomplish the creation of a third lot.

Mr. Spring said the proposed rezoning is in Planning Area 46 of the Comprehensive Master Development Plan. The existing residential subdivisions and lots are designated Suburban Low-Density and Medium-Density. New infill of existing residential development is recommended in the northeastern part of this planning area. A bike path is recommended along Evanston Road in accordance with the Tipp City Parks and Open Space Master Plan.

Mr. Spring continued that the adjacent zoning is North- R-1B, South- R-1AAA (Miami Co.), East- R-1, and West- R-1AAA (Miami Co.). Staff recommended a positive recommendation to City Council for this zoning change from R-1 to R-1A.

Mr. Vath said the Glasers had discussed with himself the desire to have 3 lots and when the application was completed the zoning classification was left blank and when it came back it had R-1 on it and Mr. Vath said the error had not registered with him. He knew the intent of the Glasers was to have 3 lots when they annexed. The R-1A is the maximum density that could be developed out there, due to the 100-year flood zone. Mr. Springer asked if it would meet the 120' frontage required for R-1A. Mr. Vath explained where the new property line would be approximately and there is adequate frontage on Tipp-Cowlesville. Lot 4044 would be a bit larger than it is presently but the property line would stay relatively the same.

Lynn Minneman, 1320 E. Evanston Road said she understood that Mr. Glaser wishes to create 3 lots. The 1-acre lot is on the northeast side. Her question was about the 2.5 acres which is where his house sets now, was it necessary to rezone it to R-1A or leave it at R-1. If something happened to his current house, could there be two houses built on that amount of acreage. She thought that would ruin the ambience of the current lot. Mr. Vath said that is correct, someone could replat that larger inlot into two lots. There would need to be some variances because there would be a 3:1 length to width ratio but they

would meet the minimum lot area. Mrs. Minneman asked that the original 2.5 acres be left at R-1. Mr. McFarland asked if the original annexation intention was to zone it for 3 lots. Mr. Vath said that was his recollection and Mr. Glaser was present to verify that. Due to miscommunication there was an incorrect zoning requested for the property. Mrs. Minneman said she was not sure that was Mr. Glaser's current intent.

Mr. David Glaser, 1330 E. Evanston Rd. came to the podium. He said his only concern was that the house he lives in presently. It is on almost 3 acres and it could be R-1. The other lot is 1-acre. His engineer advised that if something happened to the old house, there is not sufficient footage behind the house for the R-1 designation to rebuild. Mr. Glaser was hoping to move that property line back to get enough footage. He also said he would be obligated to widen the roadway. Mr. Glaser said he didn't want to be locked into providing that. Mr. Vath said some costs had been gathered for Mr. Glaser and that under the subdivision process, (the minor lot split not being discussed tonight), if the thoroughfare has not been improved to the Thoroughfare Plan requirements, then additional public improvements are required, which is curb/gutter, storm sewer, etc. Although there are provisions in the code for the Planning Board to waive those public improvements. Mr. Vath asked if Mr. Glaser wanted the entire property rezoned to R-1A. If he did not, the public hearing would need to be continued to the next meeting. A legal description would need to be provided for the area he wished to rezone. Mr. Vath said that was Mr. Glaser's choice. Mr. Glaser said he would like to scale back his request. Mr. Vath advised Mr. Glaser to get with his engineer, Mr. Klockner, and have a metes and bounds description created of the area he wishes to rezone to R-1A and provide the description to the City.

Mr. McFarland **moved to continue the public hearing to the June 12, 2007 meeting due to the applicant wishing to revise his rezoning request.** Mr. Berbach seconded the motion. Motion carried 4-0.

Public Hearing: City of Tipp City, Zoning Map Amendment- add Legacy Overlay District

This public hearing was for the addition of the Legacy Overlay District to the area delineated on the attached map in the Board's packets. Mr. McFarland **moved to open the public hearing.** Mr. Horrocks seconded the motion. Motion carried 4-0. Mr. Spring said that McKenna and Associates had been hired by the City in late 2005 to provide a reuse plan for the Legacy Light Industrial- I-1D. The District is generally adjacent to the CSX railroad tracks and is generally bound on the north by Bull Run, on the south by German Street, on the east by Fourth Street, and on the west by Fifth and Sixth Streets. The reuse plan was focused on recommending the highest and best use for the area. It gave flexibility in the zoning and parking regulations, additional permitted uses, and aesthetically attractive development. There were interviews, public meetings and workshops before the City Council adopted the Legacy District Reuse Plan on August 7, 2006. Staff was asked to prepare a draft ordinance for Planning Board review and comment. The Planning Board had a public workshop on December 12, 2006 for a review of the proposed ordinance. An invitation was sent to all commercial/industrial property owners within the "Legacy" target area. A public hearing was held on January 9, 2007 which at this time the Board recommended to Council the adoption of Code §154.064-the

Legacy Overlay District. Council passed Ordinance 12-07 which adopted this code section. The final step in the process is to specify the exact boundaries of the district in which the existing code will be effective. All residents, businesses, and industries in the proposed overlay district were mailed a letter and a map of the area.

Mr. Spring continued that the boundaries of the proposed district generally follow the exact recommendations of the Legacy District Reuse Plan adopted by City Council. The Legacy Overlay District is divided into a northern and southern section, noting that the existing Restoration District located adjacent to Main Street and central to the Legacy District area was not included in the initial Legacy study area. The Pak-It property located at 301 N. Sixth was included in the Overlay District, being adjacent to the existing study area and currently zoned I-1D. Existing residentially zoned property located along South Fourth Street, Franklin Street, and North Sixth Street were not included in the Overlay District. An attempt was made to provide continuity within the Overlay District boundaries by the inclusion of proximate properties, where the exclusion of such properties would create gaps in the parameters of the district.

Mr. Spring said that staff recommended Planning Board forward a positive recommendation to Council concerning this rezoning request.

Mr. McFarland asked for testimony. Ms. Diane Grandinette, 321 N. Fourth St. said her property is currently zoned Light Industrial. Her concern was that the change would make it residential. She did not think that would be to her benefit. She purchased the property from Dolly Inc. and wished it to remain Light Industrial even though she had to pay higher utility bills. With the Legacy Overlay District (LD), her use possibilities would be enhanced. She was looking for a possible boutique use and would like to be included in the Legacy Overlay District.

Mr. Vath said according to the Plan, those residential houses were not included. The other properties are zoned residential. The consultant followed the desire of those other properties. After looking closer at the maps, Mr. Vath said her property is zoned Light Industrial and that would not change. As a separate action, this property could have the LD added at a later date with no cost to the owner since it was a City initiated matter. Mr. Vath said a letter from Ms. Grandinette stating a desire to have the Legacy District Overlay added would start the rezoning process.

There were no further comments or questions. Mr. Springer **moved to close the public hearing.** Mr. Berbach seconded the motion. Motion carried 4-0.

Mr. Horrocks asked if the Dolly property marked on the map, 340 N. Fourth St. was included. Mr. Spring said all of the Dolly properties are in the district. He then asked if Pak-It had requested that it be added or was it logical to do so. Mr. Vath said it was logical to add and it was zoned I-1D along with Tipp Novelty. Mr. Horrocks asked why the residential properties south of the Historic District (S. Fourth Street area) were not included. Mr. Vath said they were not part of the original discussion. Those properties are mainly residential in use.

Arbogast Buick
Pontiac GMC, 3540 S.
CR 25A- Revised Site
Plan Approval

Mr. Berbach moved to recommend a positive recommendation to City Council to add the Legacy Overlay District to the designated properties. Mr. Springer seconded the motion. Motion passed 4-0.

Mr. Spring said that the applicant is requesting approval of a revised site plan which proposes two specific modifications. #1) the addition of a 255 sq. ft. raised circular concrete display area which would be located at the northeast corner of Pt. IL 3344. The display area is 18' in diameter and 6" in height with an 18" turndown edge. Staff noted that this structure has already been constructed prior to Planning Board approval. The proposed display area will be on the eastern property line and 5' from the northern property line. #2) The modification would be the reduction of previously approved striped "display spaces" from 13 to 11.

Mr. Spring said the Planning Board approved two previous site plans for this property on September 12, 2006 which allowed the renovation of 3520 S. CR 25A for Dave Arbogast Suzuki. One of the approval conditions included the applicant must obtain authorization for any modifications prior to the construction/undertaking of any such proposed modifications.

Staff did recommend that approval of the site plan should include the following conditions:

- 1) The applicant must obtain authorization/approval from the Planning Board for any proposed modifications to the approved site plan prior to the construction/undertaking of any such proposed modifications.
- 2) The applicant must locate and flag all property pins adjacent to County Rd 25A for verification of the position of the "proposed" display area, prior to the issuance of the Final Certificate of Occupancy.
- 3) All previous conditions of the September 12, 2006 Planning Board site plan approval for both 3520 & 3540 CR 25A still apply.

Mr. Tom Boardman representing Mr. Arbogast came forward. Mr. McFarland asked why the display area constructed without Board approval. Mr. Boardman said he could not answer that question, that it was added at the request of Suzuki to Mr. Arbogast. Mr. McFarland said that was why that condition was put in the approval to cut down on sites being modified without Planning Board approval. Mr. Vath said that specific language was on the action notification sent to Mr. Arbogast regarding the renovation of that property for the Suzuki dealership. He noted that when staff discovered the raised display area, Mr. Arbogast did have the application submitted within two days, but it was after the structure had been constructed.

Mr. McFarland asked if the structure was out of the right-of-way. Mr. Spring said the City Engineering Inspector did find it appears to be out of the right-of-way. Mr. Vath said until the actual pins are located and a string is pulled between the two property pins, we are assuming it is. Mr. Boardman said the engineering firm that designed it said the structure is out of the right-of-way. Mr. McFarland asked for any further comments or questions.

RCS Construction,
1035 Rosewood
Creek, IL 3916-
Temporary Use-Model
Home

Mr. Springer **moved to accept the revised site plan for 3540 S. CR 25A, Pt. Inlot 33444 with the 3 conditions noted in the staff report and to let the City know if there are any further revisions before they are done.** Mr. Berbach seconded the motion. Motion had a 2-2 vote. Ayes: Springer and Berbach Nays: Horrocks and McFarland. Mr. Vath and Mr. Springer consulted the Code of Ordinances and under §36.074(B), when there is tie vote, that matter will become automatically on the agenda of the next regular meeting or if so required by ordinance, that a special called business meeting be held. Mr. Vath said therefore, the matter will be on the agenda for June 12, 2007. Mr. Springer asked if a stop work order would be placed on the project. Mr. Vath said the work has been done but the Occupancy Permit cannot be issued.

Mr. Spring said the applicant is wishing to use the home at 1035 Rosewood Creek Drive as a model home/real estate sales office. Per Code §154.060(C)(1)(e), the Planning Board can grant a temporary use for the maximum of one year and the office shall be removed upon completion of the development of the subdivision. The hours of the model home will be Tuesday and Thursday 3pm to 7pm and Saturday 12pm to 5pm.

Staff recommended approval with the following conditions, 1) That the applicant removes the model home corresponding signage upon any transfer of title to the property or no later than May 8, 2008. Alternately the applicant could resubmit a similar request to the Planning Board for consideration by said Board no later than May 8, 2008 and 2) That the applicant submit an application for a sign permit for the model home signage no later than May 11, 2007 in accordance with Code §154.101(F).

Mr. McFarland asked if this was not similar to other requests by other builders. Mr. Spring said that was correct. Mr. McFarland **moved to approve the request for RCS Construction for 1035 Rosewood Creek, Inlot 3916 for a temporary use for a model home per the staff recommendations.** Mr. Horrocks seconded the motion. Motion carried 4-0.

Captor Corporation,
5040 S CR 25A, Inlots
4046 thru 4048- Site
Plan Revision

Mr. Spring said the applicant is requesting approval for the removal and replacement of 370 linear feet of 6' tall wooden privacy fencing. The fencing will be located proximate to the western property line, 49' from the northern property line, 64' from the southern property line, 77' from the western (rear) of the Captor building. They are also requesting approval to relocate the existing two dumpsters. Previously the dumpsters were located against the western façade of the structure. The proposed location will be along the westernmost off-street parking area. The requirements for a dumpster facility is noted in Code §154.061(M)(3-5) which states:

1. A large trash collection facility shall be situated in a permanent location and placed on a concrete pad. A dumpster pad shall be of a dimension that will allow a dumpster to sit entirely on the pad and to permit the front wheels of a trash disposal truck to reset on the pad while emptying said dumpster.

2. If a site plan contains a large exterior trash collection facility such as a dumpster, this area shall be screened so as to not be visible from a public right-of-way or an adjacent property.

3. All such screens shall be of durable wood construction or of masonry type material, compatible in color and design with the principal structure.

Mr. Spring said per the applicant, the proposed relocation of the dumpsters will provide additional off-street parking spaces for employee parking. The dumpsters will use two spaces but the vacated area will provide 8 (10'x20') spaces thus a net increase of 6 spaces.

Staff recommended approval of the site plan with the following conditions:

- 1) The applicant must obtain an approved Zoning Compliance Permit prior to the construction of the dumpster enclosure.
- 2) A dumpster pad shall be constructed so that it will allow the dumpsters to sit entirely on the pad and to permit the front wheels of a trash disposal truck to rest on the pad while emptying said dumpster.
- 3) Each newly striped off-street parking space must be a minimum of 10' x 20'.
- 4) The applicant must obtain authorization/approval from the Planning Board for any proposed modifications to the approved site plan prior to the construction/undertaking of any such proposed modifications.

Mr. Scott Timms of Captor was present and requested that the concrete pad requirement be waived. The dumpsters have set on the asphalt lot for 30 years. Mr. Vath said this property was annexed about 1 ½ years ago, the dumpsters were pre-existing. Mr. Timms said they are replacing the fence that has been up for 20+ years and needs replaced. They need more parking as they are adding employees. It will improve the number of spaces available and the aesthetics. Mr. McFarland asked if they were putting in the enclosure. Mr. Timms said that they were. Mr. McFarland asked if the Board had the authority to waive the pad requirement. Mr. Vath said they did and they could add a caveat that due to this being a pre-existing condition, that if and when the asphalt needs replaced due to being broken, then the concrete pad must be installed.

Mr. Timms said the asphalt was resurfaced last fall and where the dumpsters will set there is an additional 2-3" on top. Mr. Springer asked what kind of material was put in the dumpsters. Mr. Timms said it was typical trash, paper, nothing heavy like concrete. Mr. Vath said generally the trash collection trucks are the ones that cause the breakup of the asphalt.

Mr. Horrocks moved to approve the site plan for Captor Corporation, 5040 S. County Road 25A, Inlots 4046 thru 4048, for the fence replacement and for the dumpster enclosure and that the concrete pad for the enclosure not be required unless it becomes necessary to replace the asphalt if broken down at a future date. All other conditions noted in the staff report are to be required. Mr. McFarland seconded the motion. Motion passed 4-0.

Tipp City Church of the Nazarene, 1221 W. Main St., IL 2136-

Mr. Spring said the applicant was seeking continued operation of a church at this location. The property was recommended to be rezoned to HS (Highway Service) on March 13, 2007 by the Planning Board. At

Special Use Permit

that meeting it was discussed that a special use permit would be required as a church is not a permitted or listed special use in that zoning district. On April 16, 2007 City Council adopted Ordinance 16-07, which rezoned the property at 1221 W. Main from OS to HS and will become effective May 16, 2007 if not put to referendum. The pre-school is permitted at this location. Mr. Spring noted the permitted uses in the Highway Service district in the staff report and the special uses. However, Code does state that other uses determined by the Planning Board to be of the same general character as the permitted and special uses listed and determined by the Planning Board to contribute to the district's role in providing services to the motoring public and a larger community of interest are permitted. He said the Planning Board needs to determine if a church is a legitimate Special Use. He had also given the general and specific requirements for a Special Use in his staff report.

Mr. Spring said staff did recommend approval of the Special Use permit for the Tipp City Church of the Nazarene with the following conditions:

- 1) That the Planning Board finds a church of the same general character as the other uses within the HS (Highway Service) Zoning District previously listed and is determined by the Planning Board to contribute to the district's role in providing services to the motoring public and a larger community of interest and grants a Special Use for the same.
- 2) That this action will become effective 5/17/07 assuming that Ordinance 16-07 is not put to referendum.
- 3) The applicant must obtain authorization/approval from the Planning Board for any proposed exterior modifications to the site plan prior to the construction/undertaking of any such proposed modifications.

Mr. McFarland said most of this case was discussed at the time of the rezoning request hearing. He asked the applicant if there were any additional comments. There were none.

Mr. McFarland **moved to grant a Special Use to the Tipp City Church of the Nazarene, 1221 W. Main St., Inlot 2136 in the HS (Highway Service) Zoning District for their church.** Mr. Springer seconded the motion and it passed unanimously.

Tippecanoe H.S.
Students dismissed

Mr. McFarland gave the students an opportunity to gather signatures needed for their assignments and were able to depart at this time (8:36pm).

Menard's & DCWI-Tipp
City LLC, Weller Drive,
Kinna Dr. & Harmony
Dr., Inlots 2136, 2138,
2148, 3243, 3268, &
Pt. IL 2135- Pre-
Application
Sketch/Preliminary
Plat

Mr. Vath said Menard's, acting on behalf of the owner Don Wright, is requesting approval of a Pre-Application Sketch and Preliminary Plat for the Menard's Park Subdivision. It was formerly the Tipp City Interstate Park. It will incorporate approximately 66 acres and includes 7 lots. It will include 4.366 acres of dedicated public right-of-way. The subdivision will provide completion of Harmony, Kinna, Larch, and Weller Drives recommended by the Comprehensive Master Development Plan and the Thoroughfare Plan in this area. The specifics of the roads were listed in the staff report. A traffic signal is to be constructed at the corner of Kinna Drive and W. Main Street as required by Section 1 of the Tipp City Interstate Park Plat. The existing Harmony Drive stub located west of

the current northern terminus of Weller Drive will be vacated, with the proposed Harmony Drive intersection to be located 80' north. Code §154.092(D) stating the specific construction requirements and the required improvements from Code §155.095(A) were all stated in the staff report. Mr. Vath said the code also requires the developer to provide a guarantee for the public improvements.

Mr. Vath continued that the Planning Board does have the prerogative to waive the above noted requirements. Those were noted as items A-E in the staff report.

Menard's has retained CESO to complete a traffic study for the proposed subdivision. The study may require modification to the Menard's subdivision as delineated in this Pre-Application Sketch/Preliminary Plat. Easements will be incorporated into the Plat and he noted the 45' x 238' utility easement on Lot #3 that will be retained for storm water retention. Building Lot #4 will be the principal/primary lot for the Menard's facility will provide a detention area for the subdivision on the east side of Weller Drive. The inlet will cross Weller Drive via the use of a 60' highway and utility easement. This will provide frontage on Interstate 75 and allow Menard's to erect a 120 sq. ft. ground sign.

The Menard's subdivision will provide a regional storm water detention area for all rights-of-way and building lots 3, 4, 5, and 6. Mr. Vath said on-site detention will need to be provided for building lots 1, 2, and 7 but the storm sewer system will be constructed to allow for a discharge point for these on site detention basins.

Staff recommended Planning Board approval with two motions, 1) approval of the Pre-Application Sketch and 2) Approval of the Preliminary Plat with the conditions that the traffic study must be completed, approved by the City of Tipp City, and that all applicable recommendations of the study must be incorporated into the Final Plat.

Mr. Mark Lee of Menard's and Tony Schroeder of Choice One Engineering were present to answer any questions. Mr. Springer asked if the egress from the Menard's site was off Weller Drive or Harmony or both. Mr. Lee said it would be both. He showed the Board a site plan that he had. There were two proposed curb cuts on Weller and one on Harmony Drive. The other lots will be for commercial uses and will be marketed later. Mr. Springer asked about truck deliveries. Mr. Lee said they will come in the truck entrance. The appearance of the location was discussed briefly. Mr. Schroeder referred the Board to the new Menard's located in Sidney, Ohio. Mr. Lee said the store will resemble the store in Holland, Michigan which uses brick on the front and other brick columns along the fence line. Mr. Vath said he had digital photos of the Holland store that can be provided when the site plan is presented for approval. He said we are just at the second stage of the process with the Pre-Application Sketch and Preliminary Plat. Mr. Vath wanted to note that this project is being done by Menard's as a market-rate project. There are no City subsidies or tax incentives being provided, Menard's is installing all the public improvements, the roadways, the storm, water, sanitary, traffic signal, etc. at their costs. It has been discussed that the street lights will probably be cobra-head style to match the existing lights.

Mr. McFarland asked about an older traffic study that suggested a traffic light relocation and one-way traffic pattern to Weller and Kinna. Mr. Vath said there is a significant distance between Weller and Kinna. The draft plan does not remove the traffic signal at Weller Drive because of the traffic patterns that have been established in the last 10+ years. Weller Drive can become backed up at times with the current businesses but hopefully traffic can be encouraged to divert to Kinna Drive as part of this project.

Mr. Horrocks **moved to approve the Pre-Application Sketch for the Menard's/DCWI-LLC.** Mr. Springer seconded the motion. Motion passed 4-0.

Mr. Horrocks **moved to approve the Preliminary Plat provided that the traffic study be completed and approved by the City of Tipp City and all applicable recommendations of the study are incorporated into the Final Plat.** Mr. McFarland seconded the motion. Motion passed 4-0.

(added item)
Tom Sylvester, 425 E.
Evanston Rd, Inlot
2631 & 375 E.
Evanston Rd.PT IL
2629-Lot Survey &
Replat

Mr. Spring said the applicant had an informal discussion with the Planning Board at the April 10th meeting. He was now before the Board asking for approval for two actions in conjunction with the subdivision which is basically a transfer between two adjoining property owners. The subdivision would transfer approximately 0.720 acres from 375 E. Evanston to 425 E. Evanston Rd. The 0.720 acres would be combined into one new inlot and the remnant parcel would be assigned a new inlot number. The first action requires Planning Board approval of a lot survey in accordance with Code §155.055(B). The survey would subdivide 0.720 acres from Pt. IL 2629, 10' to the west and 290' to the north.

Mr. Spring said if the Planning Board approves the first action; the second action is to complete the subdivision/replat process. This process will replat the 0.720 acre parcel with the existing 0.510 acres into one lot of record (1.046 acres). Mr. Spring said the Tipp City Thoroughfare Plan indicates that Evanston Road shall be a principal arterial of 70' right-of-way width. A 1960 ROW drawing shows that the applicant has 55' of ROW from the center of Evanston Road which exceeds the required 35' required by the 2006 Thoroughfare Plan. However, the current 22' construction of roadway surface does not meet the required 39' back-of-curb to back-of-curb design per the Thoroughfare Plan. The requirements were listed and essentially stated that the subdivider is responsible for all improvements and the subdivider is required to guarantee those improvements.

Mr. Spring continued that the width of the proposed inlot will be 120' and the maximum depth is 492.45' which is approximately 4.1 times the width. He said code stated that the maximum depth of a lot shall not be greater than 3 times the width of the lot, except lots of 5 acres or more. Therefore any approval of the proposed subdivision shall require a waiver by Planning Board of this requirement.

Mr. Spring said Code does allow Planning Board to waive the noted requirements per §155.132 and he read thru those listed in the staff report.

Mr. Spring noted that two motions are required for the approval of this request. He recommended that Motion 1 be for the approval for the lot survey to include the following condition, that the proposed survey be approved by the Miami County Tax Map Department. Mr. Spring said the second motion would be approval of the subdivision/replat as denoted in Attachment C to include the following conditions:

- 1) A waiver of Code §155.079(D)(2) to allow for the creation of an Inlot with a maximum depth greater than 3 times the width.
- 2) A waiver of Code §155/092(D) regarding official thoroughfare construction requirements for this subdivision and the required surety noted in Code §155.117(B).
- 3) Approval of the proposed replat by the Miami Co. Tax Map Department.

Mr. McFarland asked if this action was just the formal request from Mr. Sylvester from the discussion last month. Mr. Spring said that was correct. Mr. Vath said the Board had been given the information from the State regarding the highway easement and was included as an attachment. Mr. Vath said it still required, as was discussed in the case on Kerr Road, the waiver of the public improvement requirements even though we have the right-of-way, the applicant is required to install a 37' back-of-curb to back-of-curb roadway design on Evanston Road in accordance with the Thoroughfare Plan.

Mr. McFarland asked if this was a minor subdivision. Mr. Vath said it is technically not a minor subdivision by our Code. He said even though we have the right-of-way, he would still be required to install the public improvements which makes it a major subdivision unless the Board waives the public requirements. It is similar to Kerr Road but here we have the adequate right-of-way width. There is still the requirement by code that the applicant has to install 37' back-of-curb to back-of-curb design. Mr. Vath said the applicant was asking for a waiver of those requirements so that Mr. Sylvester does not have to install curb and gutter and widen half the street in front of his house. Mr. McFarland asked if the City decided to widen that road, then could Mr. Sylvester be assessed those costs. Mr. Vath said the standard practice is that the City assesses for curb, gutter, sidewalk and aprons. Mr. Vath said there is already a 24" NAWA water line that is installed, actually adjacent to his property thru the right-of-way in front of this house and there is a sanitary sewer that runs adjacent to the creek that runs behind his house. There would be tap-in fees, capital cost recovery fees involved. Not installed at this point is a storm sewer collection system; side ditches are used in this area to collect storm water from the street. As you drive over I-75 there is a significant grade from the road to his house. Mr. Vath said when and if the road is constructed and widened, there would have to be storm sewers installed.

Mr. Vath said if the first motion passes and the second one does not, then the first one would be void. Both actions have to pass to allow the applicant to complete the subdivision. Mr. McFarland asked the Board if they had any questions for Mr. Sylvester. Mr. Springer said the discussion last month gave the intent for the request. Mr. Vath said for the record, when the Planning Board makes their motion for the second action, the Board should state the reason for the waiver. Mr. McFarland said in light of what happened with the Kerr Road case, and if a waiver is granted, will it impact that decision. Mr. Vath said there are different

facts in that case. In this Sylvester case there is existing potable water, existing sanitary sewer, existing adequate right-of-way that meet the Thoroughfare Plan, and the Board was not creating an additional buildable lot as there was on the Kerr Road request. There is a different set of facts with that case. That case has been heard and decided, this action does not have a direct impact on that case, as far as making anything retroactive or changes based upon the action. The Planning Board has to look at each individual situation, on a case-by-case basis, based upon the facts presented in each individual case and make a determination based upon those facts. Mr. Vath said obviously there is some precedence set by what was done on Kerr Road but there are different circumstances there and there was a different composition of the Board that time as far as the voting is concerned.

Mr. Horrocks asked if Evanston Road was on the Capital Improvement Plan at this point. Mr. Vath said it was at one time and he could go pull his Plan, but he thought it had been placed in the unfunded category. With the issue on the ballot this date that might address some of these concerns but that outcome was unknown. Mr. Horrocks said it was not necessary for him to retrieve his Plan. Mr. Vath said Evanston Road improvements would most likely be a cooperative project with the City, Monroe Twp. Trustees, and Miami Co. Engineering. Mr. McFarland asked for further comments. There were none.

Mr. Berbach verified that the reason for the waiver be included with the second motion. Mr. Vath said that could be incorporated as part of the second motion. The first motion is pretty explicit and just approves the lot survey realizing that if the second motion doesn't pass it voids the first motion. A second condition could be added to the first motion that if Motion Two fails then Motion One is void.

Mr. Berbach moved **to approve the lot survey for the applicant with the condition that the survey be approved by the Miami County Tax Map Department and the motion becomes void if the second motion fails.** Mr. Springer seconded the motion. Motion passed 4-0.

Mr. Berbach moved **that due to the property having existing water and sewer available, sufficient right-of-way, and it is not creating an additional lot, therefore, he asked for approval of the subdivision/replat as denoted in the staff report with the 3 following conditions:**

- 1) A waiver of Code §155.079(D)(2) to allow for the creation of an Inlot with a maximum depth greater than 3 times the width.**
- 2) A waiver of Code §155.092(D) regarding official thoroughfare construction requirements for this subdivision and the required surety noted in Code §155.117(B).**
- 3) Approval of the proposed replat by the Miami Co. Tax Map Department.**

Mr. Springer added **that the greater maximum depth requirement is waived due to the topographical reasons, down to the creek.** Mr. Berbach agreed to that addition. Mr. Springer seconded the amended motion. Motion passed 4-0.

Mr. Jaydee Blair, 1265 E. Shoop Road, came to the podium. He was glad that Mr. Sylvester got his lot split, but he had a couple of

questions. Mr. Blair asked if the Board was aware he was trying to be on the agenda to put the old farmhouse on a separate lot off the 57 acres. Mr. Berbach said he had no idea what he was referring to. Mr. Vath said there were issues that he had discussed with Mr. Blair over the phone that needed to be resolved and the item was held off the agenda. Mr. Vath said Mr. Blair requested the City move the request forward with Tom Sylvester's lot split and that was the action on the agenda. Mr. Blair asked the Planning Board how they felt before he spent \$1,000 on a survey right now. There is a cell tower on the property and the house is in a fall zone of the cell tower. So now his \$1,000 survey is no good. Mr. Blair said he was trying to figure out how the Planning Board felt about this lot split regarding improving the right-of-way etc. Mr. Vath said the Planning Board has not seen any information nor is aware of the information. Mr. Horrocks said Mr. Sylvester brought a very nice PowerPoint presentation last month to have a preliminary discussion with the Board on his request. Mr. Blair said the Board had a map. Mr. Vath said the Planning Board has no information as it was pulled from the agenda. There are additional circumstances that were mentioned to Mr. Blair by Mr. Vath last week and there were two meetings set up and they were both cancelled by Mr. Blair. There is a wireless telecommunications ordinance that comes into play due to the tower and there are specific requirements in that ordinance that have to be complied with which makes Mr. Blair's requested lot split significantly different than the one that Mr. Sylvester just requested and granted by the Planning Board. Mr. Vath said those issues need to be explored and those are to be discussed at the meeting scheduled for May 9. Those issues can be discussed and a copy of the lease needs to be provided so it can be reviewed by the Law Director to see the implications on the use of the property. Mr. Vath said until the City has that information it was premature to get information to the Planning Board until we see what the case is going to be.

Mr. Blair said what he was seeing from the Board was, as in the Kerr Road incident, it gets twisted from staff to say that there is potable water. Every house out there is on well and septic and the right-of-way was provided or to be dedicated. He thought the case was the same as Kerr Road and it was twisted around so that it was okay for one guy to do it and not the other. He didn't understand that. He said earlier the concrete apron was removed because it was pre-existing before it was annexed. Mr. McFarland said the City gives the Board powers through the code to waive certain things and they have the discretion of going either way. Mr. Blair said he understood that. Arbogast put up a fence last time and the Board did not approve it, they came back in after the fact and got it waived. Mr. Blair said he put a set of steps in the right-of-way and they had to be ripped out and be done over again. He just didn't understand how one guy can get away with something and the other doesn't. Mr. Berbach said there are different circumstances. He did not know what Mr. Blair was referring to regarding his steps and Mr. Berbach said there were mixed feelings on the Arbogast case tonight. Mr. Blair said he was glad to see that. Mr. Berbach said he just didn't know what Mr. Blair's request was. Mr. Springer said he knew the cell tower was back there but he didn't know the specifics.

Mr. Blair said farmhouse was there long before the cell tower was erected 120' from it. After the cell tower, there was an ordinance enacted that says there has to be a 115% fall. The cell tower is 300' tall

and may fall on the house no matter where you put the lot line. He said the request to see the cell tower lease is holding up his lot split. He said he was getting frustrated. Mr. Vath said as he mentioned the other two times, there are different regulations for cell towers that come into play. Mr. Blair said it was pre-existing. Mr. Vath said he still needed to comply with the cell tower regulations if you make a modification of the site plan for the cell tower and that is what he was doing if he was placing a new property line within the fall area of the cell tower. Mr. Blair asked if it was against the city ordinance or cell lease to do this. Mr. Vath said there are rules and regulations that come into play with the wireless telecommunications facility ordinance and then the setback and the fall area. Mr. Vath said Mr. Blair would theoretically have a cell tower on "Lot A"; he was creating "Lot B" into a new inlot of record that doesn't exist at this time. The tower could fall from "Lot A" onto "Lot B". Right now if the tower falls from "Lot A" it falls on "Lot A" which includes the house. If you split it off you potentially have another property owner involved. Mr. Blair said he had that now because 300' would put it falling on Spring Hill's property. Mr. Vath said that was correct but it would fall into a farm field, not onto a structure or a house.

Mr. Springer asked, if when the Board has the information then the waivers can be considered. Mr. Vath said that was possible and there are waivers with the wireless telecommunications ordinance. Mr. Vath said they would be looking to the City's consultant to provide the technical advice. The City uses CMS out of New York as a consultant.

Mr. Blair said his frustration was that he was on the agenda for tonight, was told to get a survey, spent his \$1,000 and he got a call from Mr. Vath on Wednesday, (5/2/07) stating that he could not be on this agenda because of the cell tower issue. Mr. Blair said he had to wait until June's meeting. His frustration is that he spent money on a survey that might not be any good because somebody didn't remember that there was a cell tower there. Mr. Springer said he didn't understand why the survey wouldn't be any good; he still had to bring the facts to the Board for consideration. Mr. Vath said he didn't know if Mr. Sylvester paid for the first survey or whether Mr. Blair paid for some additional components of it but he knew Mr. Sylvester started it. Mr. Blair said his was additional work. Mr. Vath said that additional work showed the location of the cell tower overlaid on Tom's base survey and it provided needed information to be able to review and potentially allow for a waiver to be granted. The base information still needed for the consultant to check which includes the lease. Mr. Blair said the lease is between the property owner and the cell company. Mr. Vath said Mr. Blair was changing the property ownership. Mr. Vath said the lease had not been received yet for review. Mr. Blair said that was because he has been pushed to the June meeting. Mr. Vath said the process can't start to verify what those requirements are; they will have an impact on the potential waiver. Mr. Vath said that is what the consultant and the City's Law Director are asking for. Mr. Blair said the lease is none of the City's business; it would be like asking to see a rental agreement of yours. Mr. Blair said it was an excuse to put him another month behind. Mr. Vath said the City Law Director said it is a vital piece of information for the process and he was going on the Law Director's advice. Mr. Springer asked if a workshop or special meeting was possible. Mr. Vath said the time is needed to review the lease and he didn't know if that could happen in a two-week time frame.

Mr. Blair asked if the Board was going to give him the same consideration as they did the property next door. Mr. Springer said he needed to see some details. Mr. Blair said forget the cell tower that he was taking off 6 acres. Mr. Springer said each case has to be looked at separately.

Mr. Blair asked about the Kerr Road case and was it the lot split that made it different. Mr. McFarland said it was creating a new building lot. Mr. Blair asked what was bad about that. Mr. Vath said there was pending litigation on that matter and he didn't know how much the Planning Board should discuss. Mr. McFarland said the Board was not going to discuss that matter any further and that is something that Mr. Blair would need to discuss with the City's Law Director.

Mr. Berbach said he understood that Mr. Blair had money invested but as a business person he has to make decisions everyday with no one telling him whether those investments are going to pay off. Mr. McFarland said the Board has parameters that they have to go by and if there is information needed according to code then the Board has to have it. Mr. Blair said he needed some positive feedback. Mr. McFarland said the Board found out about the highway right-of-way after Mr. Sylvester made his presentation last month and were able to make a decision. Mr. Berbach said Mr. Sylvester brought in a very professional PowerPoint demonstration and Mr. Blair had nothing to present. Mr. Blair said he assumed that the Board had Mr. Sylvester's map. Mr. Vath said they had it but it did not include the other structure that is involved. Mr. Sylvester paid his fees to come before the Planning Board; the minor subdivision fees and went thru the process. Mr. Vath said Mr. Blair was going to go through that process but that has not been done yet. He informed Mr. Blair if he wanted a Miscellaneous item on the agenda next month like Tom did; hopefully we will have all the information and it can just be an agenda item next month. Mr. Blair asked if all Mr. Vath needed was the cell tower lease. Mr. Vath said he had requested that on May 2. Mr. Blair said he would put the information together and the City would have the information next month.

Old Business

There was no Old Business to discuss.

Miscellaneous

City Council Reports:
April 16, 2007

Mr. Horrocks reported that Council approved the rezoning of the Tipp City Church of the Nazarene. A public hearing was scheduled for the Eidemiller property on May 21. The Council also granted two variances on a temporary sign request and denied the request for maximum display period variance and that those variances were granted for a 3-year term. This was for the Tipp City Downtown Merchants. The 2007 Asphalt Resurfacing program was approved and Phase 2 of Streetscape.

May 7, 2007

Mr. Springer said Council had a study session on the Eidemiller property rezoning before the meeting. There was a second reading for the special assessments for sidewalks and curbs for N. Hyatt St. There was also approval for the ordinance for the rezoning on Donn Davis Way from I-1 to HS. There was a first reading for the Eidemiller rezoning sponsored by Mayor Lovett. There was a motion to direct staff to prepare legislation to add a subname to the portion of Donn Davis Way from CR25A to Kessler-Cowlesville Rd. Mr. Vath said it would still be

Board member
comments

called Donn Davis Way but it would have a subname.

Mr. Berbach said he was thrilled to see that the Veteran's Memorial Park construction is under way. Mr. Horrocks asked if there was an answer to his question regarding the Planning Board going into executive session. Mr. Vath thought he had asked Mr. Moore that question. He will check on that again. Mr. Horrocks asked the status on the complaint filed on the Thompson case. Mr. Vath said the City has filed an answer to their complaint.

Mr. Springer had no further comments. Mr. Berbach volunteered to attend the June 4th City Council meeting. Mr. McFarland said he received a news release regarding the Economic Development forum on May 11 to be held at the Zion Lutheran Church. Mr. Vath said Council, Chamber, County Commissioners, and Township Trustees were invited to attend this educational forum on the economic development activities. Mr. McFarland said he would appreciate information from it. Mr. Vath said there were some PowerPoint presentations that he could forward.

Adjournment

There being no further business for discussion, Mr. McFarland **moved that the meeting be adjourned.** Mr. Springer seconded the motion. The motion unanimously carried. Chairman McFarland declared the meeting adjourned at 9:48 pm.

Michael McFarland, Planning Board Chairman

Attest: _____
Marilyn Fennell, Board Secretary